

2021 Annual Report

Crime Victims Compensation Fund



Legislative Claims Commission
Janet N. Kawash, Clerk



**West Virginia
CRIME VICTIMS
COMPENSATION FUND**

Presiding Commissioner
J. Rudy Martin
Commissioners
Andrew B. Cooke
John H. Shott

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Janet N. Kawash
Clerk

February 2, 2022

Honorable Members of the
West Virginia State Legislature

In accordance with West Virginia Code §14-2A-21, the Annual Report of the West Virginia Crime Victims Compensation Fund is enclosed. This Report covers the activities of the Crime Victim Compensation Fund for the federal fiscal year 2021.

Very truly yours,

A handwritten signature in blue ink that reads "Janet N. Kawash".

Janet N. Kawash
Clerk



2021

Annual Report
of the
West Virginia Legislative Claims Commission
for the
Crime Victims Compensation Fund

Presiding Commissioner

The Honorable J. Rudy Martin

Commissioners

The Honorable Andrew B. Cooke

The Honorable John H. Shott


Janet N. Kawash, Clerk

Prepared by Leslie R. Roberts, Business Manager



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Summary of Program

Created in 1981, and effective January 1, 1982, the West Virginia Crime Victims Compensation Fund is administered by the West Virginia Legislative Claims Commission¹.

FUNDING

The program receives \$50 per felony, \$10 per misdemeanor, \$8 for each municipal infraction except parking tickets, and 20% of assessed fines in drunk-driving cases. The program also receives an annual VOCA grant from the U.S. Department of Justice that equals 60% of the State's eligible awards.

ELIGIBILITY REQUIREMENTS

- Reporting period: 72 hours
- Filing period: 2 years
- Exceptions: Reporting period may be waived for good cause; time periods begin when child victims attain age of majority
- Reporting period - sexual assault: 96 hours

PROCEDURES

Applications are submitted to the Legislative Claims Commission. An investigator performs an investigation and prepares a report that includes findings of fact and a recommendation. The report is sent to the applicant who has 30 days to respond. This initial response is handled informally by the investigator who reviews and comments on the response. One commissioner will review the file and issue an order to award or deny compensation.

Appeals: The applicant has 21 days to request a hearing, which is held before a commissioner other than the initially deciding commissioner. The hearing commissioner's order is final.

BENEFITS

Maximum award:

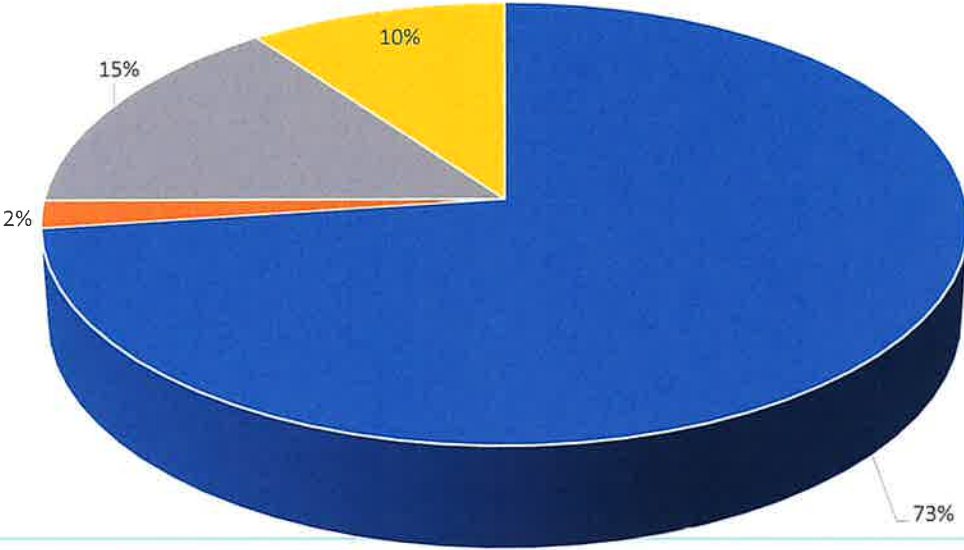
- \$35,000 in personal injury cases
- \$100,000 in permanent disability cases (in addition to the \$35,000)
- \$50,000 in death cases

Compensable expenses:

- Medical expenses
- Mental health counseling
- Mental health counseling for secondary victims up to \$1,000
- Lost earnings/support expenses
- Funeral/burial expenses up to \$10,000
- Relocation up to \$2,500
- Travel to medical treatment facility
- Travel to criminal proceeding up to \$1,000
- Travel to return minor from out-of-state/out-of-country
- Replacement services
- Rehabilitation
- Attorney fees (public defender rates)

¹ The West Virginia Court of Claims changed its name to the West Virginia Legislative Claims Commission effective July 1, 2017. The term Commission is inclusive of all decisions made by either the Court or Commission.

Administrative Funds
October 1, 2020 - September 30, 2021

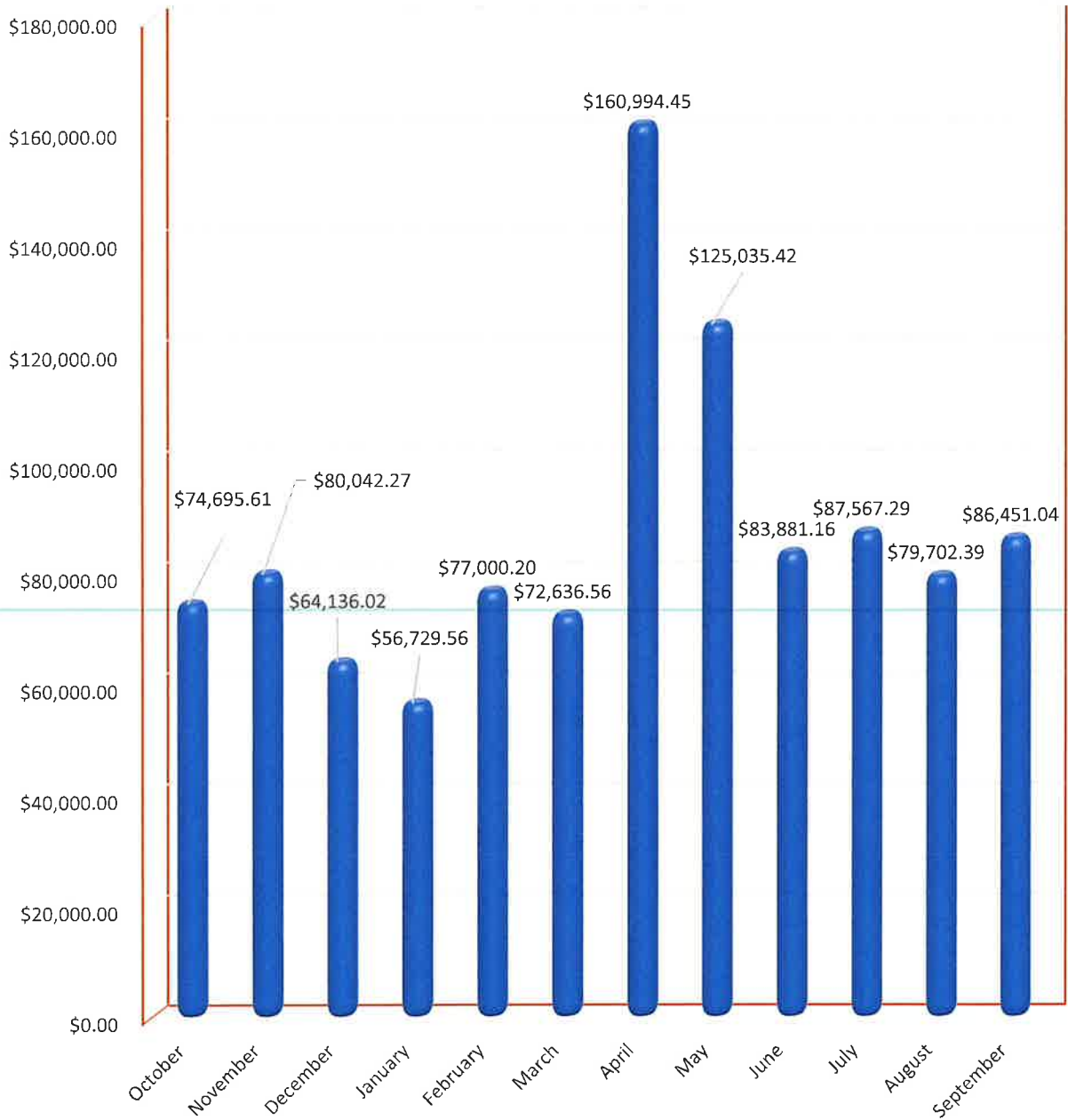


■ Personnel & Benefits ■ Attorney Fees ■ Administrative Costs ■ Compensation of Commissioners



Federal Fiscal Year 2021 (October – September)

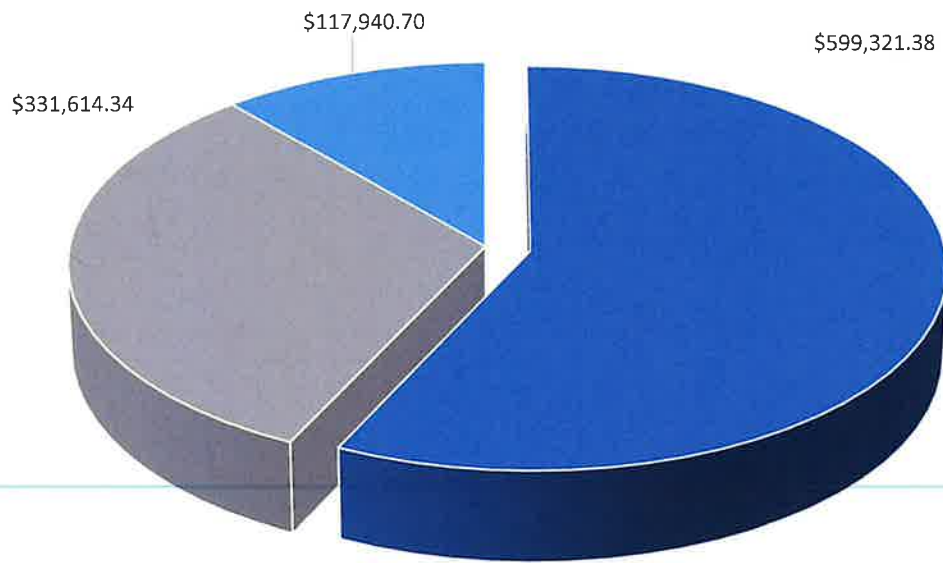
Court Fees Collected



❖ State funds – fines and court costs (circuit and magistrate courts, \$10; municipal courts, \$8; felony convictions, \$50; 20% of DUI fines) W.Va. Code §14-2A-4, §62-5-10

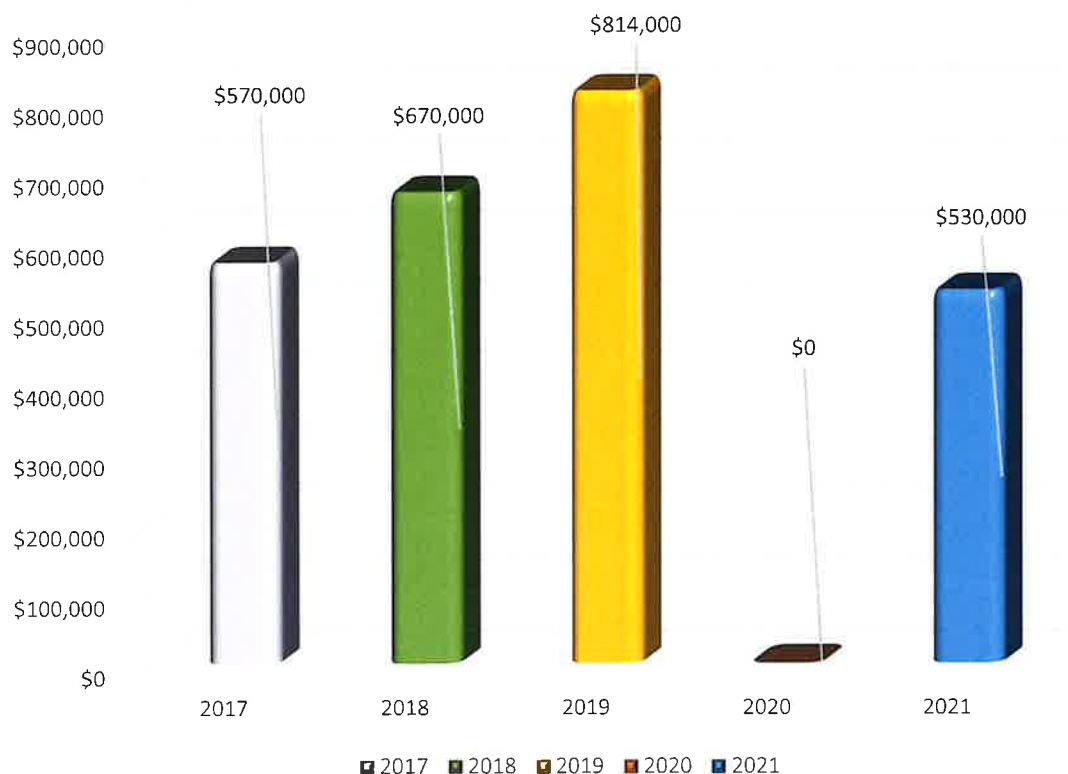


Court Fee Sources FFY 2021



■ Magistrate Court ■ Municipal Court ■ Circuit Court

FEDERAL GRANTS RECEIVED



- The 2020 grant year was awarded based on the 2018 grant year. Due to a large grant award in the 2016 grant year that was required to be expended by the 2018 grant year and high levels of restitution and subrogation only in the 2018 grant year, the Crime Victims Compensation did not qualify for an award in 2020.

Under the Federal Victims of Crime Act (VOCA) of 1984, federal monies became available to state compensation programs and victim assistance programs.

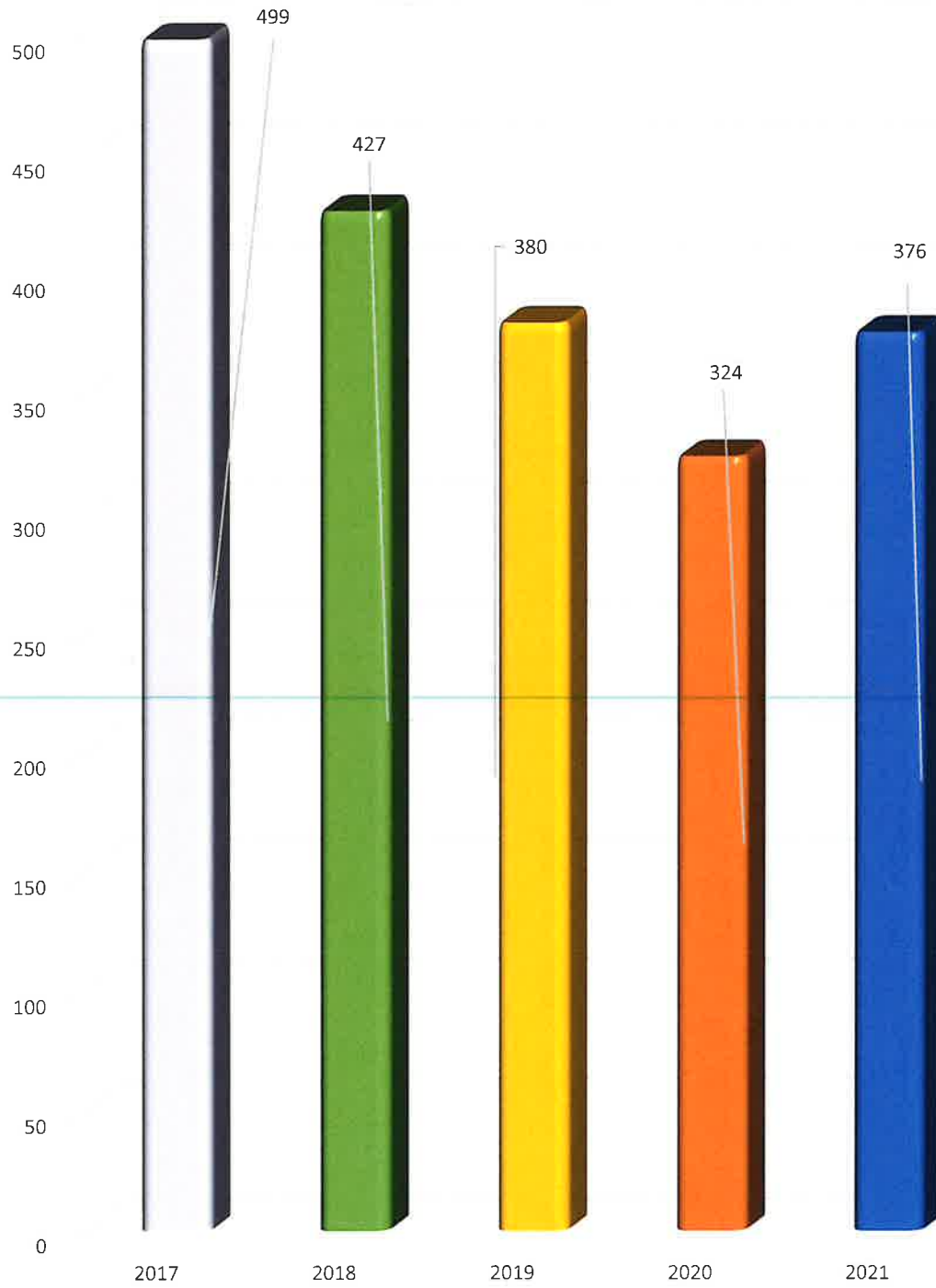
The U.S. Department of Justice, Office of Justice Programs, allocates these funds to state compensation programs based on a formula of 60% of the previous fiscal year's awarded claims.

Beginning with the 1995 grant, programs are permitted to use up to 5% for administrative expenses, which includes purchasing equipment, hiring personnel, and travel expenses. However, the administrative expenses may not supplant state funds.

West Virginia has received a total of \$24,650,230 in federal funds for its compensation program since 1986 (the first grant year).

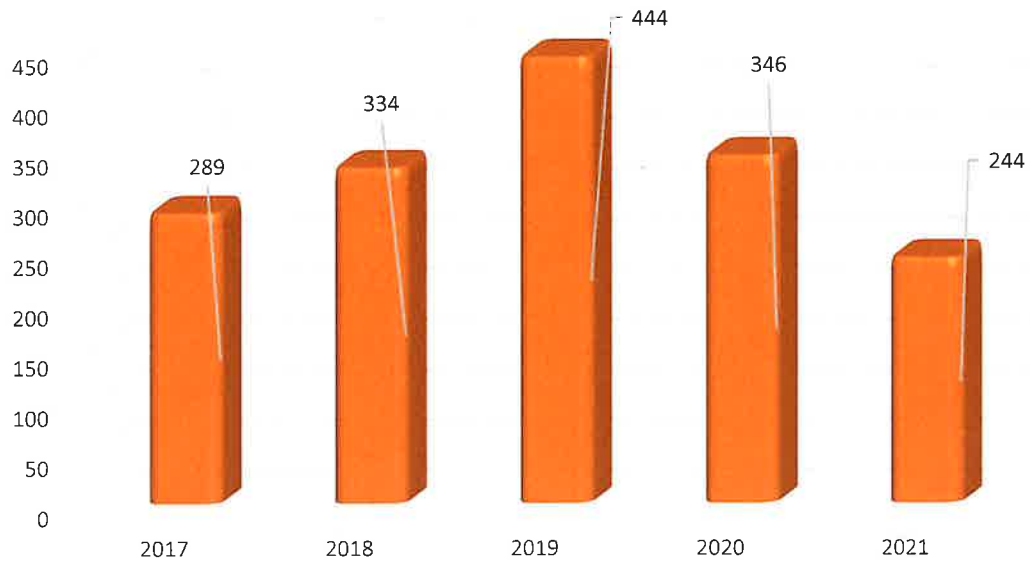


2021 CLAIMS FILED

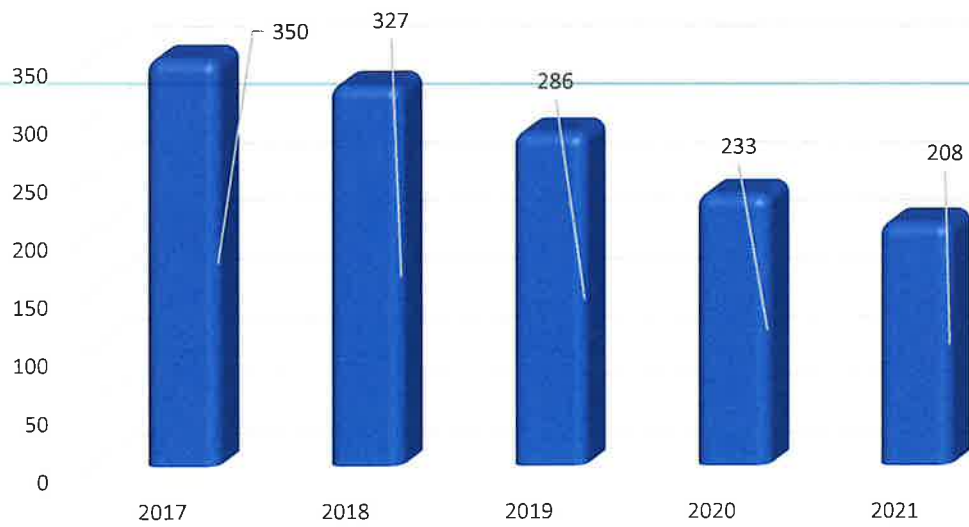




Orders Issued by the Commission FFY 2021- INITIAL

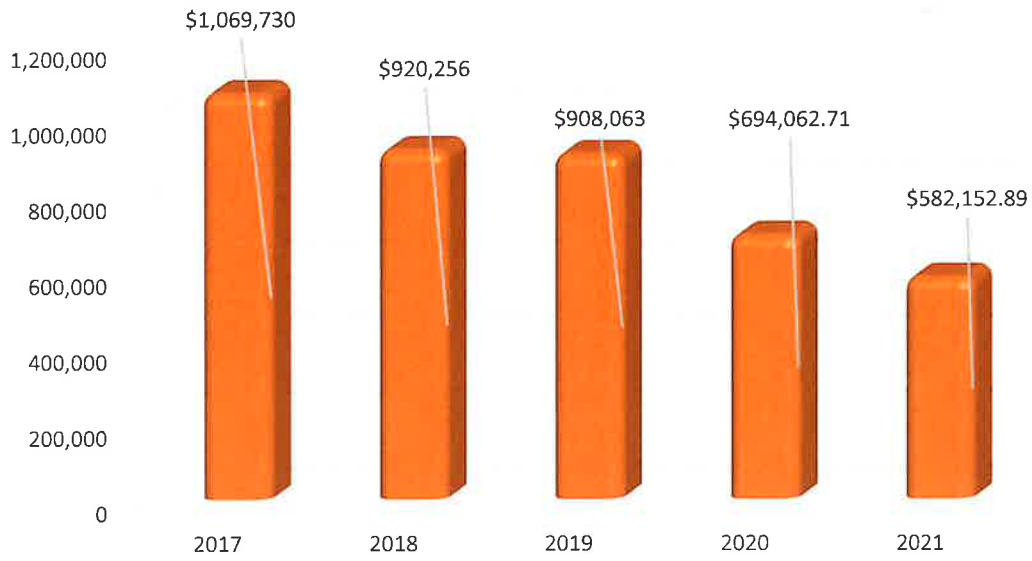


Orders Issued by the Commission FFY 2021 - SUPPLEMENTALS





Initial Award Amounts FFY 2021



Supplemental Awards FFY 2021



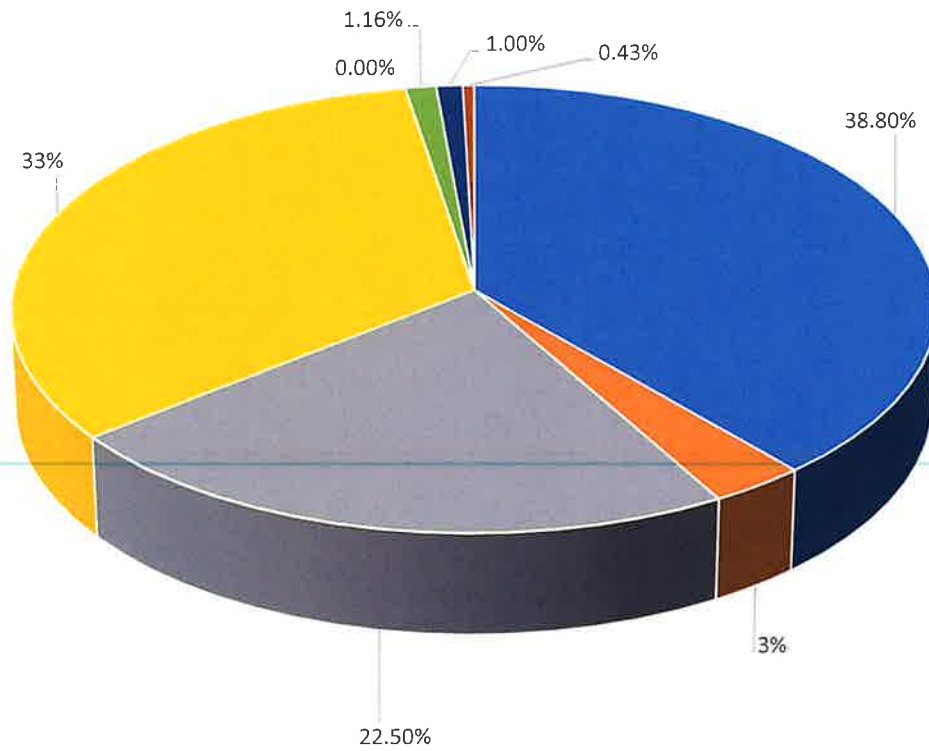


Total Awards by Type FFY 2021



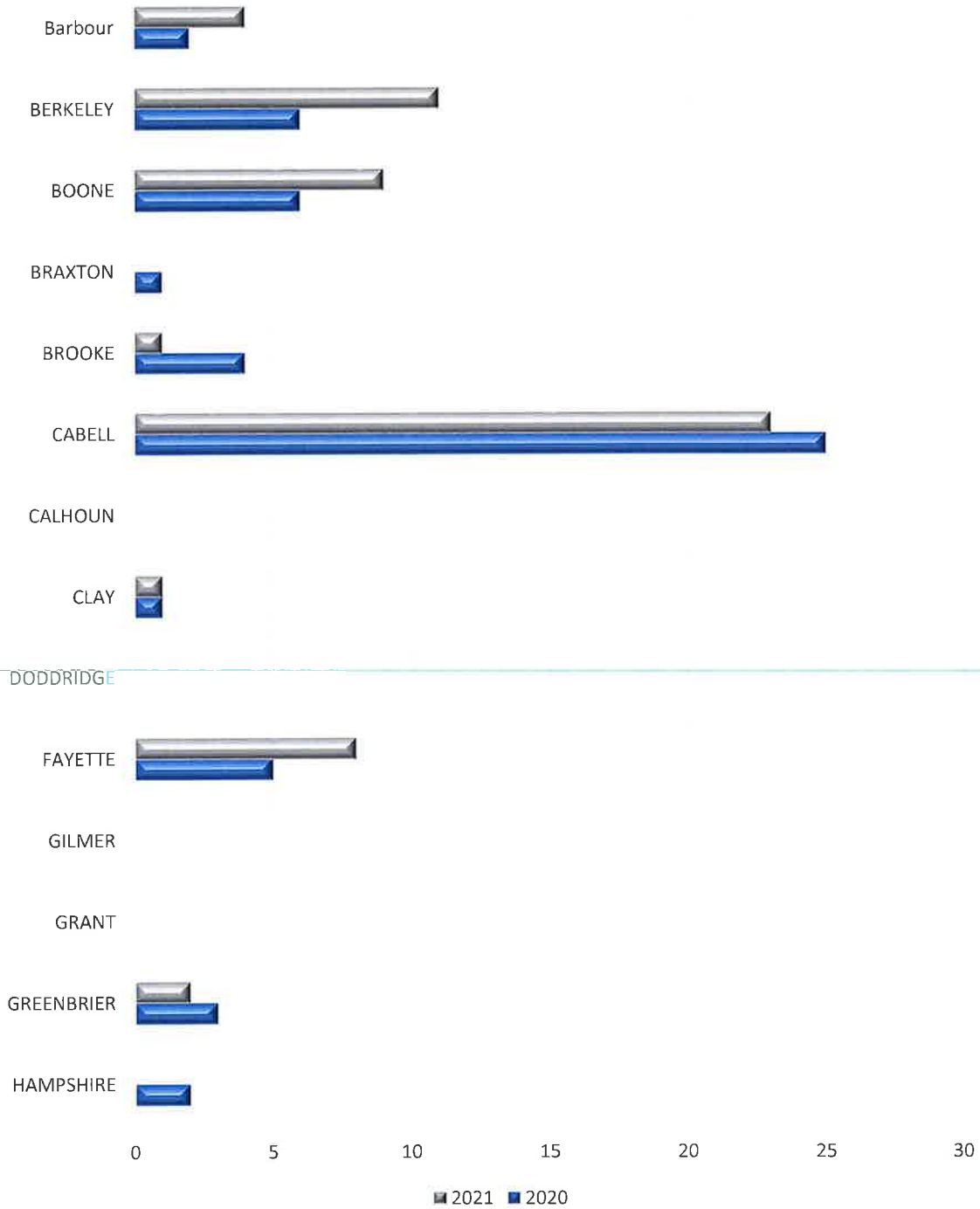


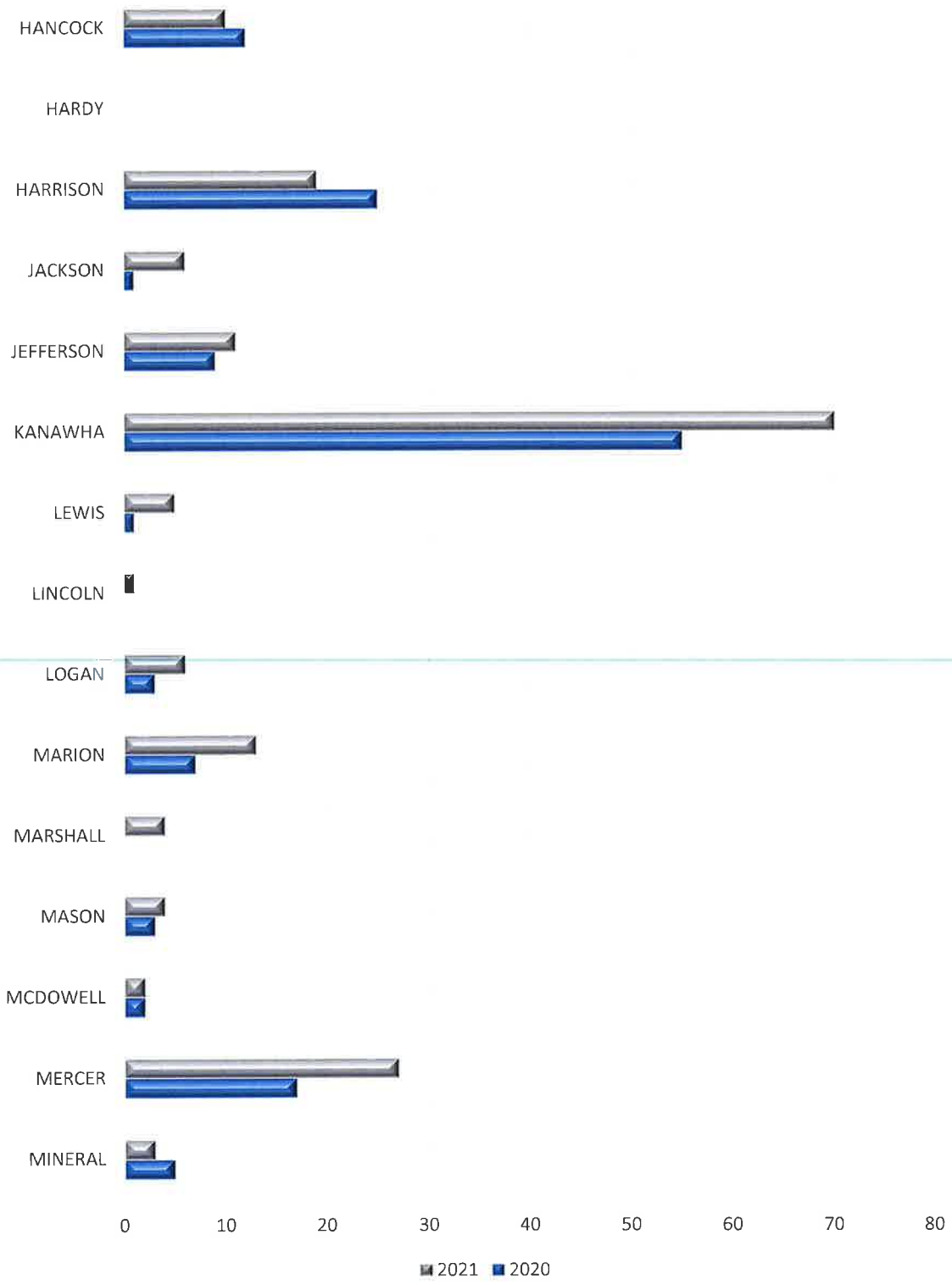
Percent of Total Awards FFY 2021

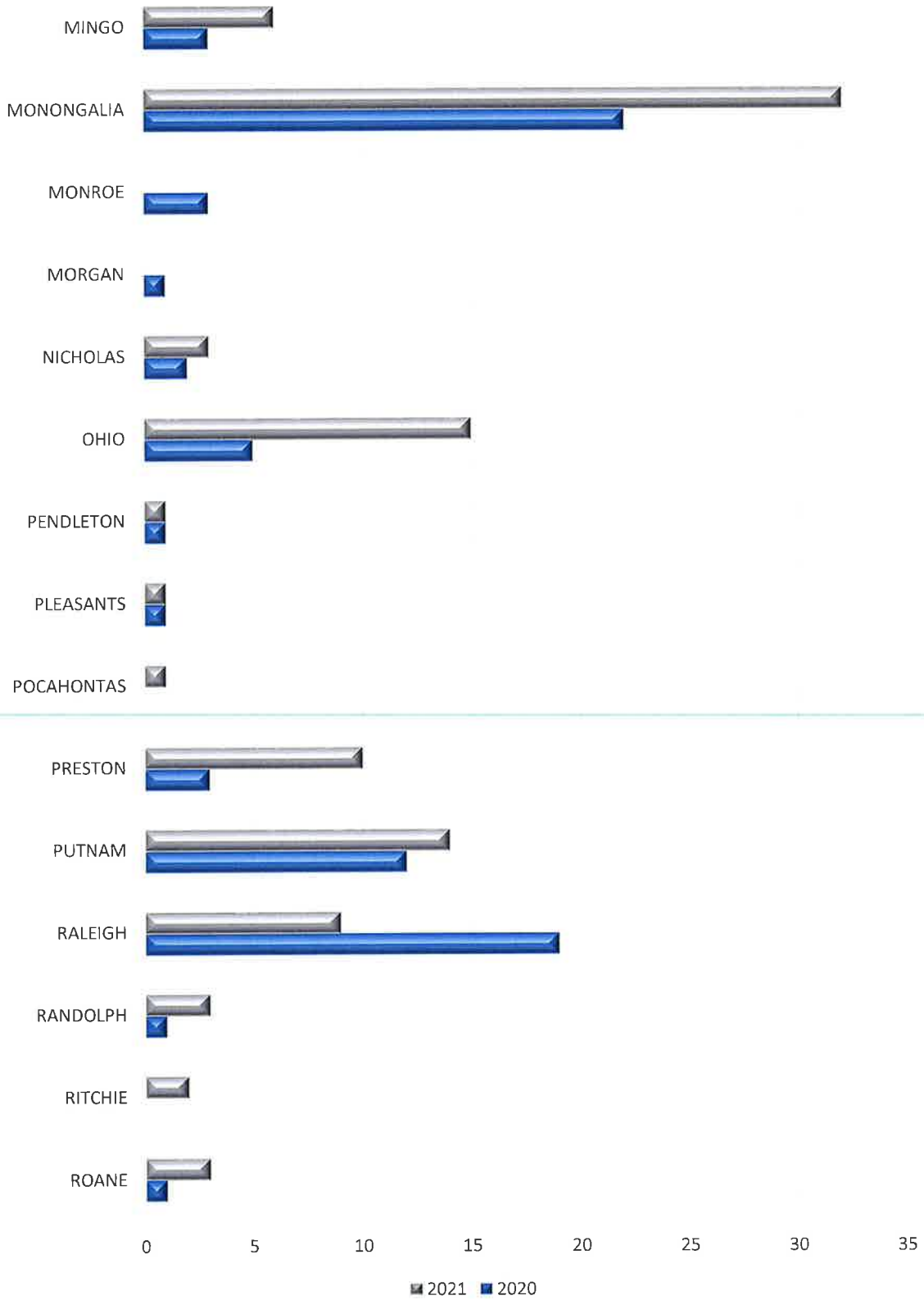


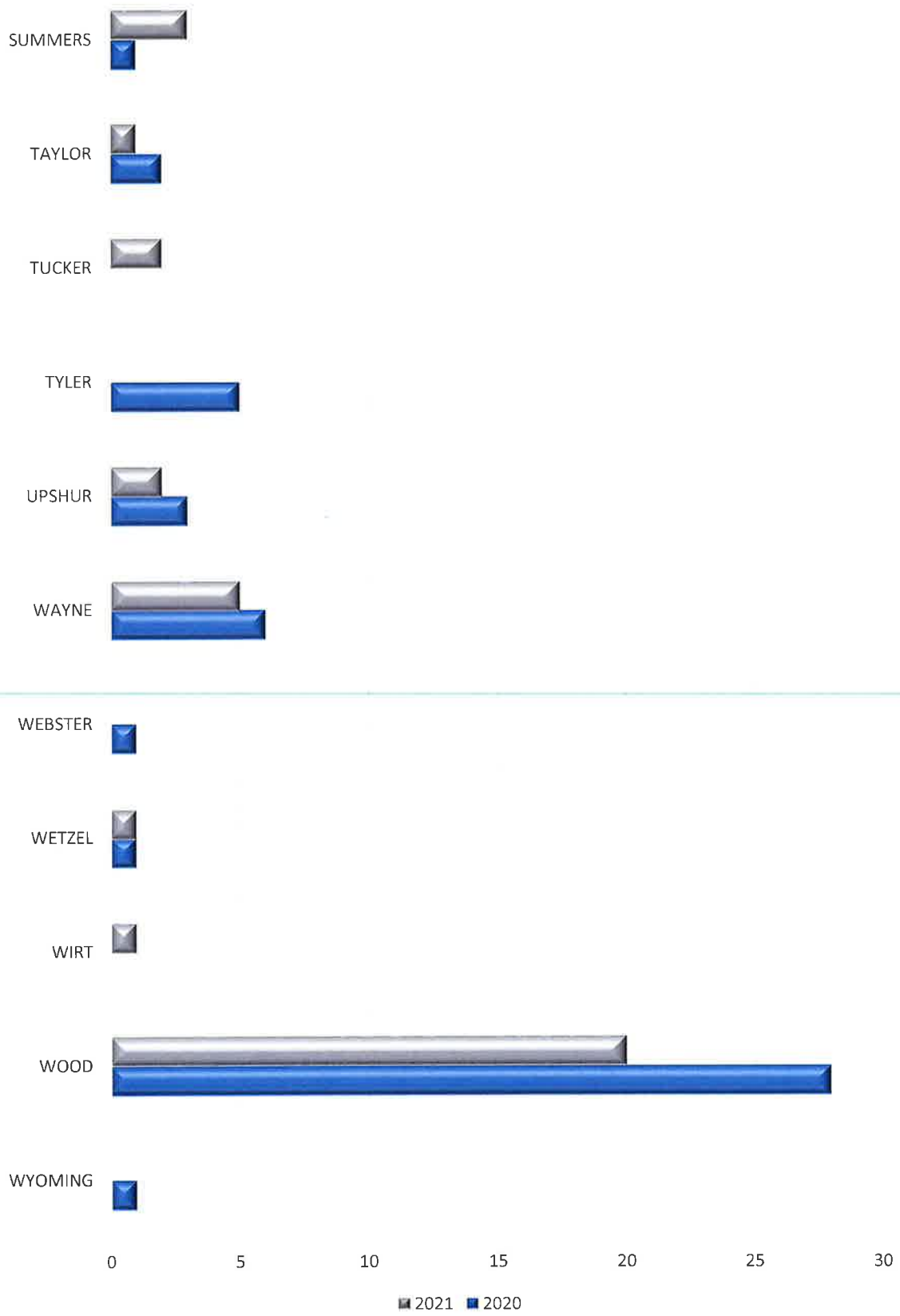
■ Medical ■ Mental Health ■ Lost Wages ■ Funeral ■ Property ■ Relocation ■ Travel ■ Dep. Loss

Claims Filed By County 2020 & 2021

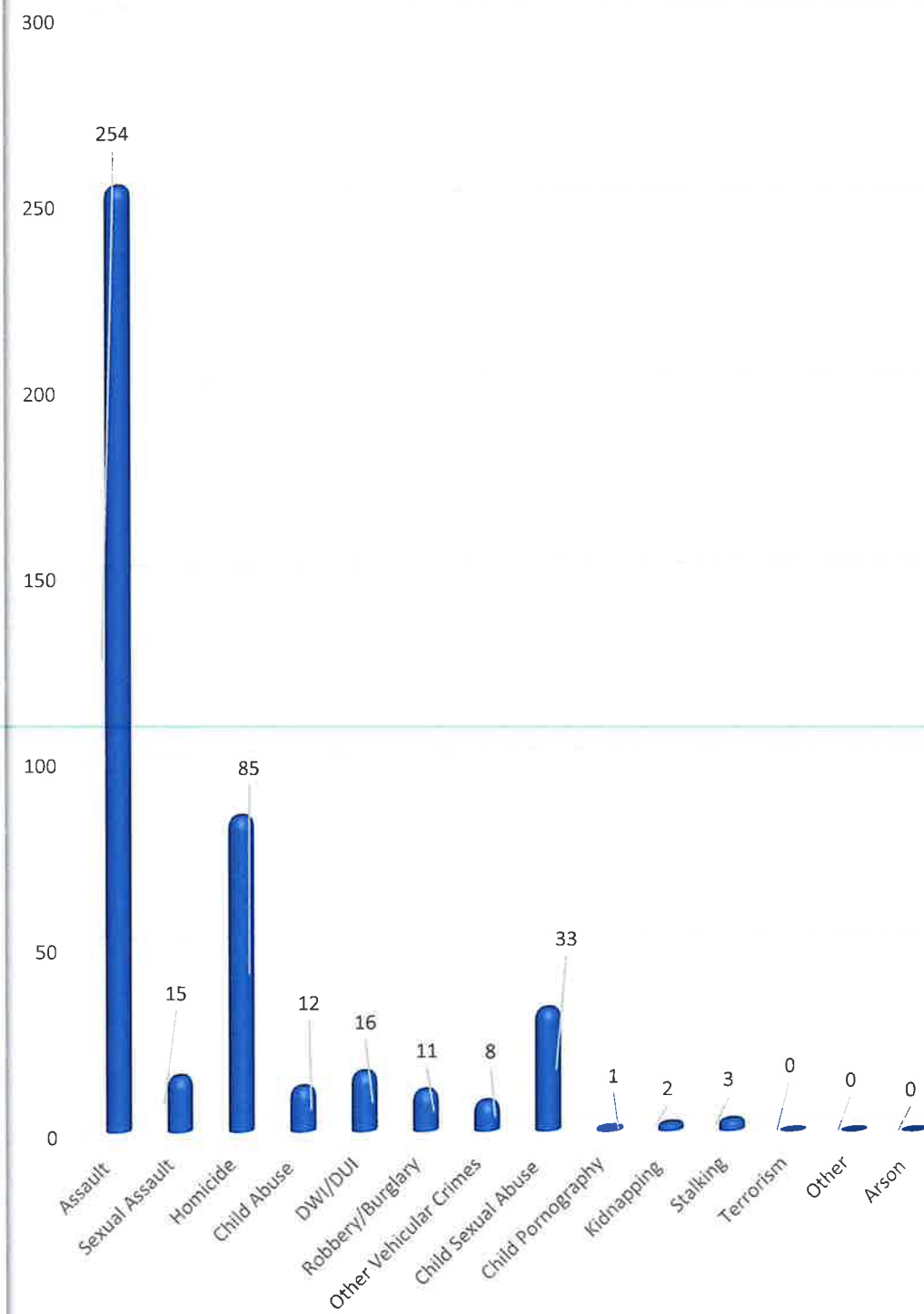






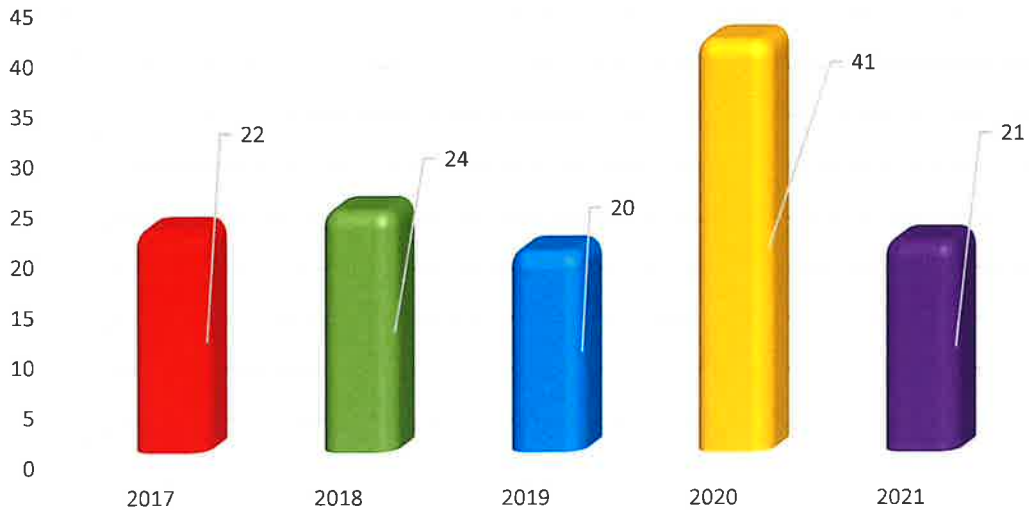


Claims Paid by Type of Crime

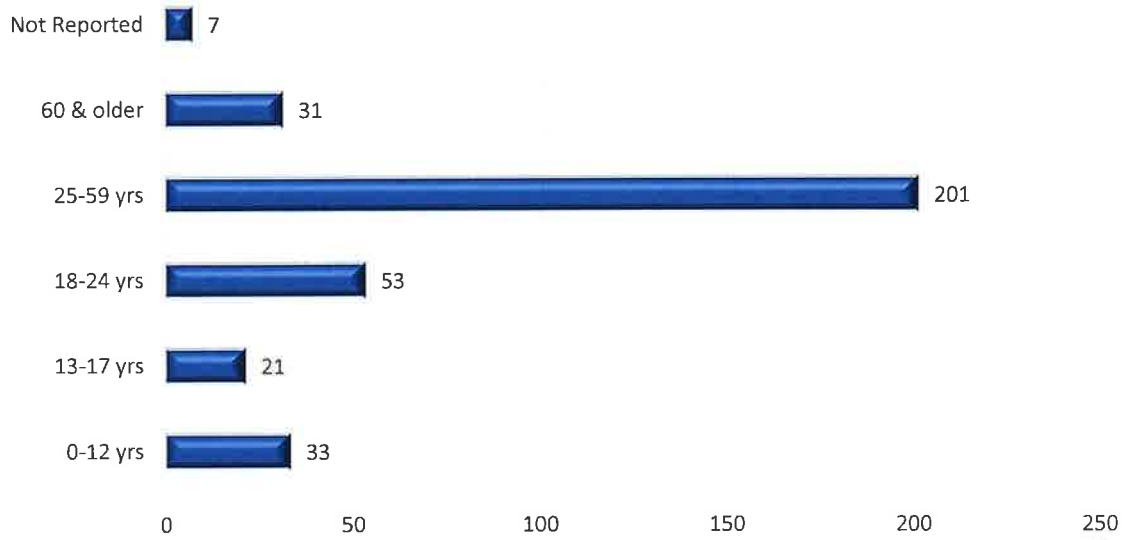




Claims Involving Domestic Violence

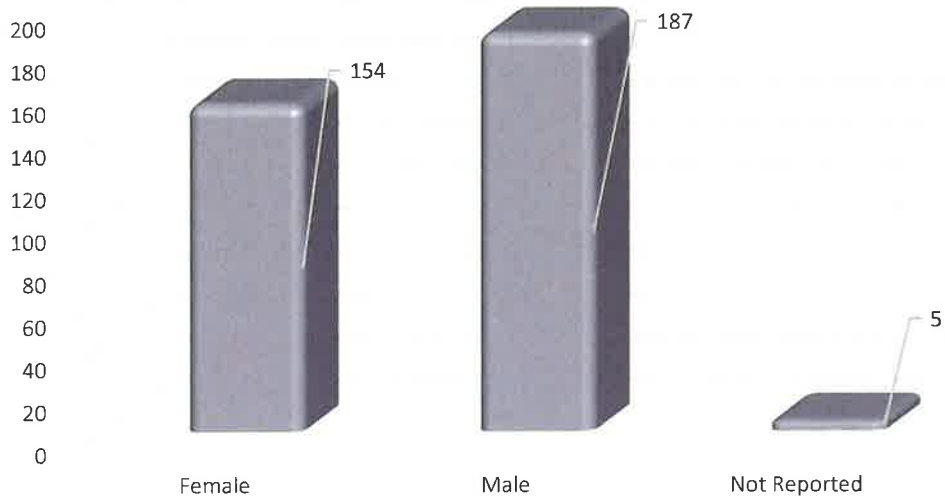


Claims Completed by Age

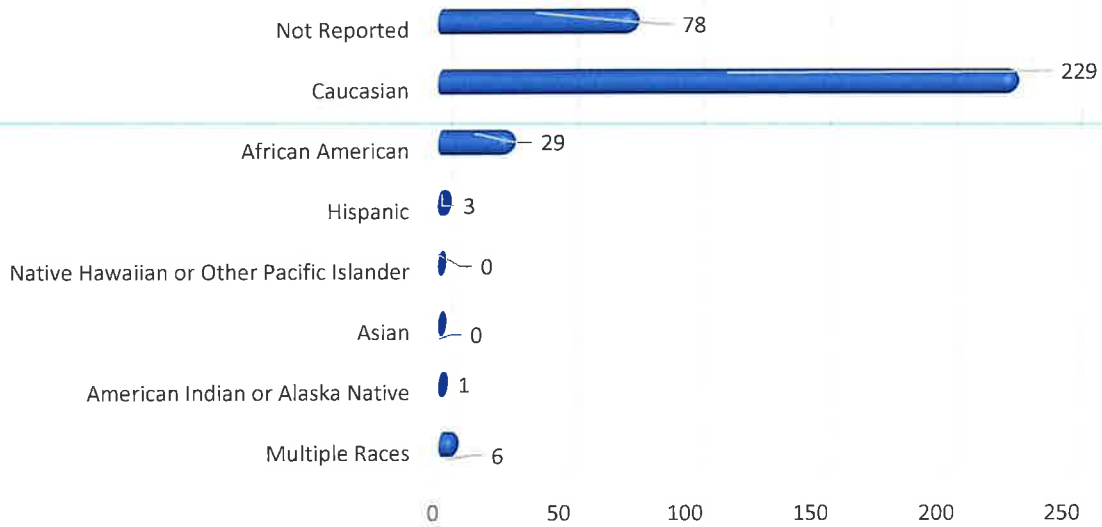




Claims Awarded by Gender



Claims Completed by Race/Ethnicity





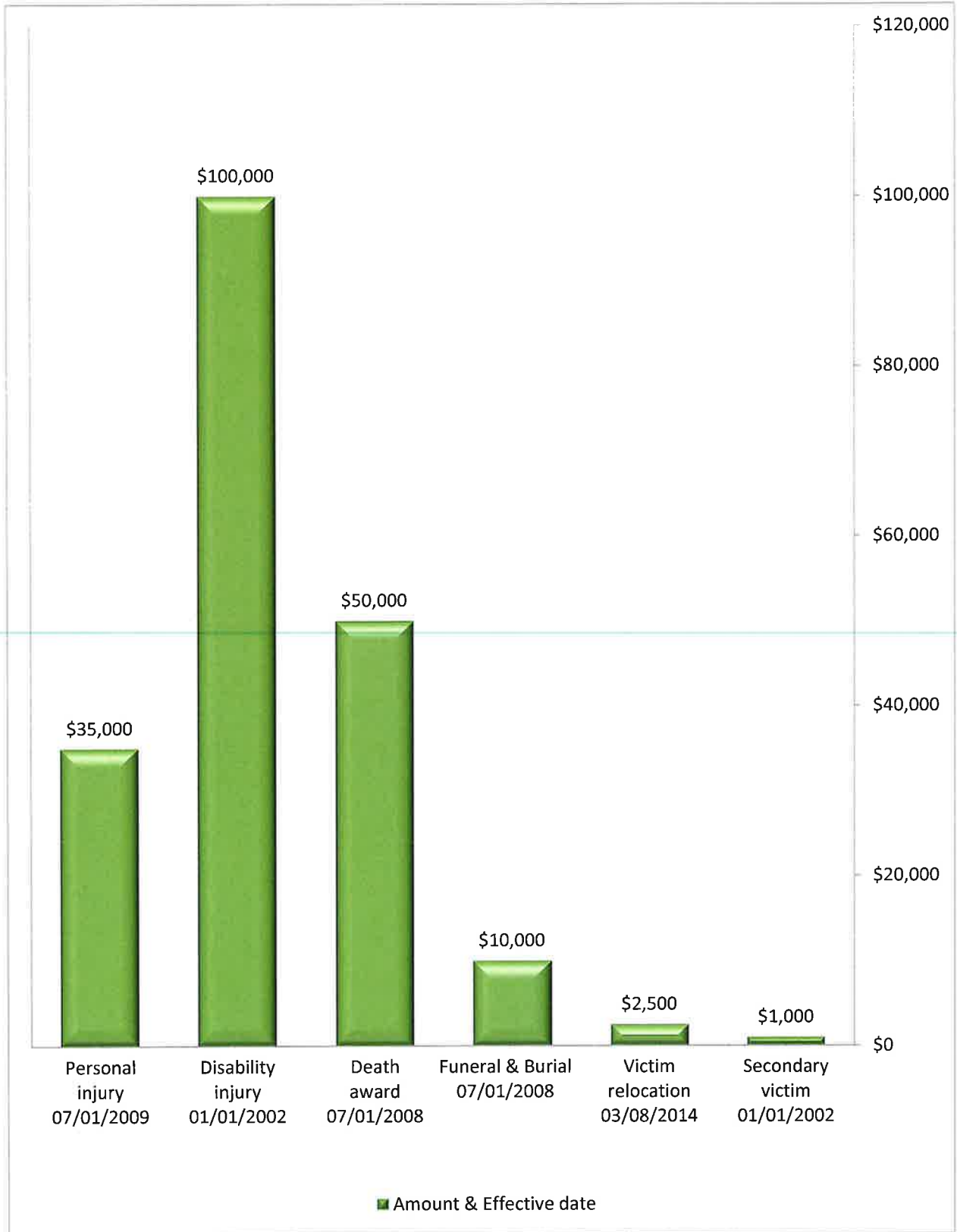
Denied Claims

October 1, 2019 – September 30, 2020

The Commission denied 319 claims for various reasons which include:

No Economic Loss	200
Incomplete Information	14
Contributory Misconduct	38
Failed to Cooperate	30
No Criminal Conduct	19
Not Filed Within 2 Years	13
Reached Maximum Award	1
Crime Within Penal Institution	1
Not Reported Timely	6
Unjustly Benefits Offender	1
Duplicate Claim	4

Summary of Maximum Benefits by Statute





CRIME VICTIMS COMPENSATION FUND
A SYNOPSIS OF APPEALED CLAIMS

CV-16-0149-X In re: P.C.


Following the execution of a search warrant on or about April 11, 2016 at the Claimant's residence, the Claimant's front door was purportedly damaged; the Claimant filed an application for benefits with the Crime Victims Compensation Fund. The Claimant stated on her application that she was not injured as a result of the April 11, 2016 incident. The investigation conducted by the Crime Victims Compensation Fund determined that there were insufficient police records to fully determine the nature and extent of the events surrounding the execution of the search warrant on April, 11, 2016. The claim investigator recommended that the Claimant's claim be denied inasmuch as her application sought benefits for the repair of her front door. Pursuant to West Virginia Code §14-2A-3(f), payment of crime scene clean-up and repairs to her residence were not classified as allowable expenses. At the hearing, the Claimant's testimony confirmed that she was not injured as a result of the April 11, 2016 events and further, that she sought to have her front door either replaced or repaired. Upon appeal, the denial of payment was upheld as the Claimant's request was a property related claim for which no benefits are available from the Fund pursuant to West Virginia Code §14-2A-3(f).

CV-19-0363-Y In re: C. M.

The Claimant filed an application seeking an award under the Crime Victim Compensation Act on behalf of her adult daughter. On October 19, 2019, the Claimant's daughter was found unresponsive by a friend at the alleged offender's residence; the friend took the victim to a local hospital where she died on November 1, 2019. An investigation was conducted by the local police department followed by an investigation by the Crime Victims Compensation Fund. These investigations revealed that the Claimant's daughter died as a result of an accidental drug overdose. According to these investigations, the victim's companion was present at the time of the overdose; he was ultimately charged with drug delivery resulting in death. Following an investigation by the West Virginia Crime Victims Compensation Fund, the Claimant's application for benefits was denied. The Fund determined that the decedent's conduct met the statutory definition of "contributory misconduct" as defined by West Virginia Code 14-2A-3(l) and that she was not the victim of "criminally injurious conduct" as required by West Virginia Code 14-2A-3(c). Upon appeal, the denial was upheld as there was no evidence presented to overturn these original findings.

CV-20-0084-X In re: H. D.

The Claimant filed an application seeking an award under the Crime Victim Compensation Act. The Claimant was involved in an altercation outside of a bar on February 23, 2019. The Claimant reported the incident to law enforcement. The incident was investigated by the local police department with charges filed against the purported assailants. However, the Claimant did not attend the court proceedings related to the prosecution of the offenders. The West Virginia Crime Victims Compensation Fund also conducted an investigation and determined that because the Claimant did not attend the court proceedings related to the prosecution of the offenders, he was



not eligible to receive any benefits pursuant to West Virginia Code §14-2A-14(d). The Claimant appealed and a hearing was scheduled. A Notice of Hearing was sent to the Claimant's address of record by US mail; this Notice was not returned as undeliverable. On the date of the hearing, the Claimant did not appear. The Claims Commission found that the Claimant received proper Notice of the hearing but failed to attend the hearing. Accordingly, the Claimant's appeal was dismissed for his failure to appear and failure to prosecute.

CV-20-0299-Y In re: J. H.

The Claimant filed an application seeking an award under the Crime Victim Compensation Act. The Claimant was involved in an assault at his residence with an unknown offender on August 14, 2020. The Claimant reported the incident to law enforcement. The incident was investigated by the local police department, which was followed by a separate investigation conducted by the West Virginia Crime Victims Compensation Fund. These investigations revealed that local police department conducted an initial investigation into the Claimant's allegations. However, the Claimant moved to another city in West Virginia and failed to follow up with the local police department investigation. The local police department closed its investigation without identifying the offender and without any charges filed against the alleged offender. The Crime Victims Compensation Fund's investigation revealed that because the Claimant did not cooperate with the local police department's investigation into the events of August 14, 2020, he was not eligible to receive any benefits pursuant to West Virginia Code §14-2A-14(d). The Claimant appealed and a hearing was scheduled. A Notice of Hearing was sent to the Claimant's address of record by US mail; this Notice was not returned as undeliverable. On the date of the hearing, the Claimant did not appear for the hearing. The Claims Commission found that the Claimant received proper Notice of the hearing but failed to attend. Accordingly, the Claimant's appeal was dismissed for his failure to appear and failure to prosecute his appeal.
